

The Rail Safety Improvement Act of 2008
New Risk Reduction, Training, and Certification
Requirements

Janie Sheng
K&L Gates LLP
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RSIA – General Points

- The RSIA reauthorizes the Federal Railroad Administration.

- Includes provisions that, *inter alia*:
 - Mandates risk reduction programs
 - Requires implementation of interoperable PTC systems
 - Revises Hours of Service requirements
 - Improves safety at grade crossings
 - Sets minimum training standards for workers

RSIA – General Points (*cont'd...*)

- Includes provisions that, *inter alia*: (*cont'd*)
 - Establishes certification of train conductors and possibly other employees
 - Requires review of track inspection standards and methods
 - Requires locomotive cab studies
 - Requires critical incident stress plans
 - Covers MOW workers under alcohol and drug test programs
 - Requires maintenance of tunnel information
 - Requires adoption of bridge safety management plans

RSIA – General Points

90 or so Action Items

- Different forms:
 - New substantive requirements
 - New rules forthcoming
 - FRA reports to Congress
 - Studies
 - Pilot programs

RSIA – General Points (*cont'd...*)

- Many of the new requirements apply to different categories:
 - All railroads and their contractors – freights, commuter rail and intercity (*i.e.*, Amtrak and any successors) and contractors.
 - All railroads – freights, commuter rail and Amtrak.
 - All freights.

RSIA – General Points (*cont'd...*)

- Class I freights only
- Commuter rail and Amtrak (*e.g.*, timing of changes to Hours of Service Act).
- Amtrak only – Section 503: Amtrak plan to govt on needs of families involved in major accidents.

- Temporal Separation/Shared Use LRT properties
 - Are subject to FRA jurisdiction – Applicability, waivers.

RSIA – General Points (*cont'd...*)

- Calculating deadlines:
 - The President signed the Act into law on October 16, 2008. That is the effective date. Some of the deadlines are tied to the effective date.

RSIA – What has happened so far?

- FRA Rail Safety Advisory Committee (“RSAC”)
 - RSAC is a federal advisory committee
 - 54 voting representatives from various rail industry perspectives
 - RSAC works with FRA in developing railroad safety regulations through a consensus process. RSAC is developing FRA’s implementing rules for RSIA.
- Most recent RSAC Meeting was April 2, 2009.

Section 103: Railroad Safety Risk Reduction Program

- New § 20156
- Summary – The FRA is required to issue regulations within four years requiring Class I railroads, Amtrak and commuter railroads to develop a railroad safety risk reduction program (“RRP”).
 - The RRP must systematically evaluate railroad safety risks and manage those risks in order to reduce the number and rate of railroad accidents, incidents, injuries and fatalities.

Section 103: Railroad Safety Risk Reduction Program (*cont'd...*)

- Risk Analysis – the RRP must include an analysis of operating rules and practices, infrastructure, equipment, employee levels and schedules, safety culture, management structure and employee training and other matters *including those not covered by railroad safety regulations or other federal regulations* that impact safety.
- The RRP must be reviewed and approved by the FRA.

Section 103: Railroad Safety Risk Reduction Program (*cont'd...*)

- Other Key Program Elements:
 - Technology Implementation Plan (“TIP”) – the RRP must include a ten-year plan that describes the railroad carrier’s plan for development, adoption, implementation, maintenance, and use of current, new or novel technologies on its system to reduce safety risks identified under the RRP.
 - There is an affirmative obligation to update the TIP periodically.
 - The TIP must be submitted to FRA for review and approval by FRA.

Section 103: Railroad Safety Risk Reduction Program (*cont'd...*)

- Other Key Program Elements:
 - The TIP also must include an analysis of the safety impact, feasibility, and costs and benefits of implementing technologies, including:
 - Processor-based technologies
 - PTC systems
 - Those required to submit an RRP must implement a PTC system pursuant to the TIP by **December 31, 2018**.
 - Electronically controlled pneumatic brakes;
 - Rail integrity inspection systems;

Section 103: Railroad Safety Risk Reduction Program (*cont'd...*)

- Other Key Program Elements: (*cont'd...*)
 - The TIP also must include (*cont'd...*)
 - Rail integrity warning systems
 - Switch position monitors and indicators
 - Trespasser prevention technology
 - Highway-rail grade crossing technology

Section 103: Railroad Safety Risk Reduction Program (*cont'd...*)

- Fatigue Management Plan
 - Designed to reduce the fatigue experienced by safety-related railroad employees and to reduce the likelihood of accidents, incidents, injuries caused by fatigue.
 - Covers:
 - Employee subject to Hours of Service Act
 - Other operating personnel, maintenance-of-way workers, railroad hazmat workers, and persons who inspect, repair and maintain rolling stock.
 - Any other employee who directly affects railroad safety as determined by FRA.

Section 103: Railroad Safety Risk Reduction Program (*cont'd...*)

- Fatigue Management Plan (*cont'd...*)
 - Must be updated at least once every two years
 - Must address, among other things:
 - Employee education and training on physiological and human factors affecting fatigue
 - Opportunities for treatment of fatigue
 - Effects on employee fatigue of any employee's short-term or sustained response to emergency situations or engagement in other intensive working conditions.

Fatigue Management Plan

- Fatigue Management Plan must address (*cont'd...*)
 - Scheduling practices; on-duty call practices
 - Work and rest cycles
 - Increased consecutive days off for employees
 - Changes in shift patterns
 - Changes in duties
 - Alertness strategies, such as policies on napping
 - Avoidance of abrupt changes in rest cycles for employees.

Section 401 – Minimum Training Standards and Plans

- New §20162
- Summary – within one year, the FRA will establish minimum training standards for each class and craft of safety-related railroad employee.
- Covers:
 - Employee subject to Hours of Service Act
 - Other operating personnel, maintenance-of-way workers, railroad hazmat workers, and persons who inspect, repair and maintain rolling stock.
 - Any other employee who directly affects railroad safety as determined by FRA.

Section 401 – Minimum Training Standards and Plans (*cont'd...*)

- Also applies to equivalent railroad carrier contractor and subcontractor employees.
- The FRA standards will require railroads and railroad contractors to qualify or otherwise document the proficiency of such safety-related employees regarding their knowledge and ability to comply with federal railroad safety laws and regulations and railroad rules and procedures.

Section 401 – Minimum Training Standards and Plans (*cont'd...*)

- Track and Equipment Inspection Employees – within one year, FRA must establish minimum training, testing and skills criteria for track and equipment inspection employees.

Section 401 – Minimum Training Standards and Plans (*cont'd...*)

- Railroads and railroad contractors must submit training and qualification plans to FRA for approval.

Section 402 -- Certification of Train Conductors and Others

- Train Conductor Certification – By April 16, 2010, the FRA must promulgate a rule establishing a program requiring the certification of train conductors.
 - The train conductor standards must conform to the training standards in § 20162 (enacted by Section 401).
 - The train conductor standards may conform to the locomotive engineer certification standards of 49 U.S.C. §20135.

Section 402 -- Certification of Train Conductors and Others (*cont'd...*)

- RSAC is on target to meet this deadline.
- FRA has stated that the initial regulation may follow the certification template already established in 49 CFR Part 240.

- RSAC Conductor Certification Working Group considering:
 - Defining unacceptable safety conduct
 - Improving the current Part 240
 - Classifying conductor positions (defining conductor, joint conductors and engineers)
 - Implications for conductors involved in unsafe conduct.

Section 402 -- Certification of Train Conductors and Others (*cont'd...*)

- Certification of Other Crafts and Classes
 - Within six months after issuance of the rule, the FRA will issue a report to Congress about whether certification of other crafts or classes is necessary to reduce accidents and improve safety.
 - FRA has said they will not meet this second deadline.

Section 402 -- Certification of Train Conductors and Others (*cont'd...*)

- The report must consider:
 - Car repair and maintenance employees;
 - Onboard service workers
 - Rail welders
 - Dispatchers
 - Signal repair and maintenance employees
 - *Any other craft or class that the FRA deems appropriate.*

Section 402 -- Certification of Train Conductors and Others (*cont'd...*)

- Regulations – The FRA may prescribe regulations requiring these additional certifications.

Section 412 – Alcohol and Drug Testing for Maintenance-of-Way Employees

- Summary – within two years, the FRA must complete a rulemaking proceeding to revise the regulations on drug and alcohol testing in order to cover all employees and contractors who perform maintenance-of-way activities.

Section 204 – National Crossing Inventory

- New §20160
- Summary – within *one year* for existing crossings and within *six months* after a new crossing becomes operational, all railroad carriers must report to FRA information specified by FRA (including information about warning devices and signage) regarding each previously unreported crossing through which it operates.

Section 204 – National Crossing Inventory (*cont'd...*)

- Such crossing information must be updated on a periodic basis within two years and by September 30th of every year thereafter.
- The reporting responsibility falls on the entity dispatching traffic on the relevant line.
- Regulation – The FRA will issue regulations to implement this requirement.

Section 204 – National Crossing Inventory

- Definition of “crossings” – includes grade-separated crossings and any explicitly authorized pedestrian, bicycle or other crossing.
 - Includes private crossings.

Section 205 – Crossing Malfunctions

- Summary – within eighteen months, railroad carriers must establish a toll-free service to receive calls regarding malfunctions of signals, crossing gates and other devices, disabled vehicles, obstructions to the view of pedestrians or vehicle operators, and other safety information.

Section 405 – Locomotive Cab Studies

- Summary – within one year, the FRA is required to complete a study on the safety impact of the use of personal electronic devices (*i.e.*, cell phones, video games, and other distracting devices) by safety-related railroad employees during the performance of such employees' duties.
- Report – within six months after completion of the study, the FRA shall issue a report to Congress

Section 405 – Locomotive Cab Studies (*cont'd...*)

- Based on the conclusions of the study, the FRA may prohibit the use of personal electronic devices unless being used according to railroading operating rules or for other work purposes.

Thank you!

Janie Sheng

K&L Gates LLP

1601 K Street, NW

Washington, DC 20009

(202) 778-9855

Janie.sheng@klgates.com